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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,787

10/05/2004

John Melvin

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nolaIP, LLC
P.O. BOX 24100
NEW ORLEANS, LA 70184

EXAMINER

MAUST, TIMOTHY LEWIS

ART UNIT

PAPER NUMBER

3751

NOTIFICATION DATE

DELIVERY MODE

05/06/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/711,787	Applicant(s) MELVIN ET AL.	
	Examiner Timothy L. Maust	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 3-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In view of the appeal brief filed on 2/10/10 and in light of newly found art, PROSECUTION IS HEREBY REOPENED. A new ground of rejection in addition to the previous 103(a) rejection of 11/10/09 is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Gregory L. Huson/

Supervisory Patent Examiner, Art Unit 3751

Claims 1-6 are pending with claims 1 and 2 being examined on their merits and claims 3-6 being withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Hermeling (EP1167860).

Regarding claims 1 and 2, the Hermeling reference discloses a mobile filling plant (vehicle 1, station 2, reservoir 3 and trailer 4) for filling compressed gas bottles (6) on-site with oxygen (see para. 5, line 1) (see Figures 1 and 2), comprising: transporting a transfilling station (2) to a desired transfilling site (station 2 and reservoir 3 are transported to the site by vehicle 1 and trailer 4; see para. 13); attaching gas canisters (6) to said transfilling station (the canisters are attached at terminals provided on the underside of station 2; see para. 6); inspecting and evacuating said gas canisters (the gas bottles and conduits are cleaned and analyzed between fillings as disclosed in paragraph 7 and paragraph 12); vaporizing and compressing a gas and directing it into said gas canisters (see line 1 in para. 12); disconnecting said gas canisters; and transporting said transfilling station from said transfilling site (after being filled, the bottles are disconnected for use and the transfilling station is capable of being moved to another site).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Mattiola et al. (4881375) in view of Hermeling (discussed supra).

The Mattiola et al. reference discloses a system for inspecting, evacuating, vaporizing and compressing a gas such as oxygen into gas cylinders (see Column 4, line 5 to Column 6, line 20), but doesn't disclose the concept of transporting the system to the site of filling. However, the Hermeling reference discloses another "mobile gas canister transfilling station" (discussed supra) wherein the system is transported to the site of filling (see disclosure). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Mattiola et al. system by making it mobile in view of the teachings of the Hermeling reference in order to simplify the refilling of gas cylinders or vehicles for the end user by bringing the product to the site of filling.

Claims 1 and 2 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Mattiola et al. in view of Niedwiecki et al. (6755225).

The Mattiola et al. reference discloses a system for inspecting, evacuating, vaporizing and compressing a gas such as oxygen into gas cylinders (see Column 4,

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line 5 to Column 6, line 20), but doesn't disclose the concept of transporting the system to the site of filling. However, the Niedwiecki et al. reference discloses another "mobile gas canister transfilling station" (see Figures 4-6) wherein the system is transported to the site of filling (see disclosure). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Mattiola et al. system by making it mobile in view of the teachings of the Niedwiecki et al. reference in order to simplify the refilling of gas cylinders or vehicles for the end user by bringing the product to the site of filling.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 7:00-5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy L Maust/
Primary Examiner
Art Unit 3751

4/28/10